

LINDA BERGER
On her own behalf

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re

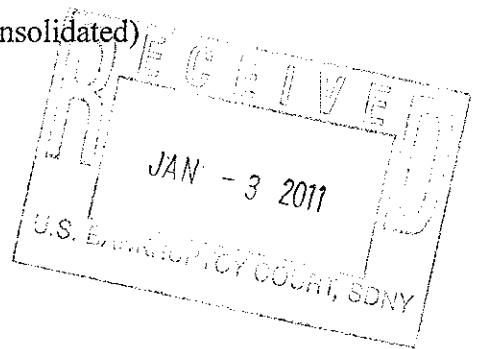
BERNARD L. MADOFF,

Debtor.

Adv. Pro. No. 08-01789 (BRL)

SIPA Liquidation

(Substantively Consolidated)



OBJECTION TO TRUSTEE'S DETERMINATION OF CLAIM

Linda Berger hereby objects to the Notice of Trustee's Determination of Claim dated December 3, 2010 ("Determination Letter"), attached. The Trustee's Determination Letter pertains to Customer Claim No. 005990. Mrs. Berger objects to the Trustee's Determination Letter, as described herein, to preserve all rights, claims, and defenses should the following situations occur.

BACKGROUND

1. On or about February 27, 2009, Linda Berger submitted to the BMIS Trustee a customer claim for a portion of a BLMIS account, Acct. No 1-ZB511. Linda Berger's investment in BLMIS was via an IRA account through the custodian Fiserv, to Fern Creek, LP, which is the owner of BLMIS Account number 1-ZB511 in the name of Ostrin Family

Partnership. Linda Berger opened the account with Fern Creek and made the first deposit on August 21, 2008.

2. On December 3, 2009, the BMIS Trustee sent Linda Berger a Determination Letter disallowing the Claim, Number 005990, due to the fact that Linda Berger is not a customer of BLMIS. *See* Determination Letter.

3. Mrs. Berger hereby objects to the Determination Letter for the reason described below and to preserve all rights with regard to this Claim in the event that any of the following should occur.

GROUNDS FOR OBJECTION

4. The BLMIS Trustee has encouraged all those who lost money due to the Madoff Ponzi scheme to file customer claim forms. This includes investors such as Linda Berger, who invested "indirectly" with BLMIS. The BLMIS Trustee has clearly contemplated a scenario whereby "indirect" investors, such as Linda Berger, would be entitled to have their claims allowed and/or paid in this proceeding. To the extent that any such "indirect" claims are allowed and/or "indirect" claimants are deemed "customers" under SIPA by virtue of the present statute, any amended statute, any decision or ruling of any court or administrative agency, or any decision by SIPC or the Madoff Trustee, Linda Berger reserves the right to challenge any determination of her claim by the BLMIS Trustee.

RELIEF REQUESTED

5. For the reasons stated herein, the Linda Berger Customer Claim should be held in abeyance pending the potential occurrences of any of the scenarios set forth above. In the event any of those scenarios should occur, the Linda Berger Customer Claim, Number 005990 should be allowed in its entirety.

6. Linda Berger requests such other relief as may be just and equitable.

CONCLUSION

7. Linda Berger reserves the right to revise, supplement, or amend this Objection, and any failure to object on a particular ground or grounds shall not be construed as a waiver of the right to object on any additional grounds.

Dated: December 30, 2010



Linda Berger
Account Claim Number 005990
27 Holiday Point Road
Sherman, CT 06784
Tel: (860) 355-9837

BERNARD L. MADOFF INVESTMENT SECURITIES LLC
In Liquidation
DECEMBER 11, 2008¹

NOTICE OF TRUSTEE'S DETERMINATION OF CLAIM

December 03, 2010

LINDA BERGER
27 HOLIDAY POINT ROAD
SHERMAN, CT 06784

Dear LINDA BERGER:

PLEASE READ THIS NOTICE CAREFULLY.

The liquidation of the business of BERNARD L. MADOFF INVESTMENT SECURITIES LLC ("BLMIS") is being conducted by Irving H. Picard, Trustee under the Securities Investor Protection Act, 15 U.S.C. § 78aaa *et seq.* ("SIPA"), pursuant to an order entered on December 15, 2008 by the United States District Court for the Southern District of New York.

The Trustee has made the following determination regarding your claim designated as Claim No. 005990:

Based on a review of available books and records of BLMIS by the Trustee's staff, you did not have an account with BLMIS. Because you did not have an account, you are not a customer of BLMIS under SIPA as that term is defined at 15 U.S.C. § 78III (2). Accordingly, your Claim for securities and/or a credit balance is **DENIED**.

PLEASE TAKE NOTICE: If you disagree with this determination and desire a hearing before Bankruptcy Judge Burton R. Lifland, you **MUST** file your written opposition, setting forth the grounds for your disagreement, referencing Bankruptcy Case No. 08-1789 (BRL) and attaching copies of any documents in support of your position, with the United States Bankruptcy Court **and** the Trustee within **THIRTY DAYS** after December 03, 2010, the date on which the Trustee mailed this notice.

¹ Section 78III(7)(B) of SIPA states that the filing date is "the date on which an application for a protective decree is filed under 78eee(a)(3)," except where the debtor is the subject of a proceeding pending before a United States court "in which a receiver, trustee, or liquidator for such debtor has been appointed and such proceeding was commenced before the date on which such application was filed, the term 'filing date' means the date on which such proceeding was commenced." Section 78III(7)(B). Thus, even though the Application for a protective decree was filed on December 15, 2008, the Filing Date in this action is on December 11, 2008.

PLEASE TAKE FURTHER NOTICE: If you do not properly and timely file a written opposition, the Trustee's determination with respect to your claim will be deemed confirmed by the Court and binding on you.

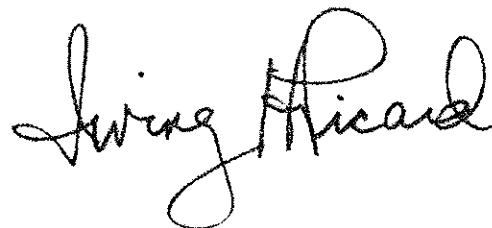
PLEASE TAKE FURTHER NOTICE: If you properly and timely file a written opposition, a hearing date for this controversy will be obtained by the Trustee and you will be notified of that hearing date. Your failure to appear personally or through counsel at such hearing will result in the Trustee's determination with respect to your claim being confirmed by the Court and binding on you.

PLEASE TAKE FURTHER NOTICE: You must mail your opposition, if any, in accordance with the above procedure, to each of the following addresses:

Clerk of the United States Bankruptcy Court for
the Southern District of New York
One Bowling Green
New York, New York 10004

and

Irving H. Picard, Trustee
c/o Baker & Hostetler LLP
Attn: Claims Department
45 Rockefeller Plaza
New York, New York 10111



Irving H. Picard

Trustee for the Liquidation of the Business of
Bernard L. Madoff Investment Securities LLC